

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Emory Group, LLC,

Plaintiff,

vs.

South By Sea, LLC, d/b/a
Shirts for Greeks, and
Brandon Metcalf,

Defendants.

Civil Action No. 6:15-cv-01856-MGL

**MOTION TO FILE EXHIBITS UNDER
SEAL**

Pursuant to Local Civil Rule 5.03, D.S.C., Plaintiff, Emory Group, LLC (“Emory”) asks the Court enter an Order sealing Exhibits A, A-7, B, and B-1 to Emory’s Motion for Preliminary Injunction and Incorporated Memorandum in Support (ECF No. 9). This relief is sought for the following reasons.

1. This case was only recently filed and the parties do not yet have a protective order that would otherwise govern the use of confidential information in this action.

2. Exhibit A and related Exhibit 7 (or Exhibit A-7), Exhibit B and related Exhibit 1 (or Exhibit B-1) consist of declarations from Emory representatives and related evidence. Among the topics covered, each of these statements addresses information of a financial or commercially sensitive nature. In addition to concerns about the public, Emory is also concerned about the potential for dissemination by defendants of this information.

3. The factors governing the sealing of documents are stated in *Ashcraft v.*

Conoco, Inc., 218 F.3d 288, 302 (4th Cir. 2000). These factors include: “(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.” *Id.* The *Aschraft* factors weigh in favor of sealing Exhibit Q.

Public notice

4. The public filing, through the Court’s CM/ECF system, of this Motion to Seal and the non-confidential description of Exhibits A, A-7, B, and B-1 (attached hereto as Exhibit A) satisfies the requirement of public notice. See Local Civ. R. 5.03(D) (“The clerk of court shall provide public notice of the motion to seal in the manner directed by the court. Absent direction to the contrary, this may be accomplished by docketing the motion in a manner that discloses its nature as a motion to seal.”).

Less Drastic Alternatives

5. Less drastic alternatives to sealing are not available. Nearly every statement in the declarations involves sensitive information. Emory has provided for the public redacted versions of these declarations. Furthermore, Emory does not seek to seal any document or information that is otherwise in the public domain. The only “alternative,” therefore, would be not filing the documents at all, which would deprive the Court of information Emory reasonably believes is necessary for this Court’s consideration of Emory’s Motion for Preliminary Injunction.

Reasons Supporting Sealing

6. As noted above, Emory does not yet have a protective order in place that

would prevent defendants from disseminating or otherwise using Emory's commercially sensitive, confidential information in a manner adverse to Emory and its legal position. Moreover, the public notice requirement is met with Emory's descriptions of documents being filed under seal. From practical statement, Emory's Motion for Preliminary Injunction itself contains descriptions of the material found in the corresponding exhibits, further alleviating any concerns of public notice.

Certifications

7. Pursuant to Local Rule 5.03(C), undersigned counsel certifies compliance with the requirements for filing documents under seal in this Court.

8. With respect to Local Rule 7.02, counsel for defendants was consulted prior to the filing of this motion.

Respectfully submitted,

NEXSEN PRUET, LLC

May 11, 2015

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